IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.505 OF 2005
IN
CHAMBER SUMMONS NO.1336 OF 2003
IN
SUIT NO.493 OF 2000

Rashid Sattar Oomberbhoy — Appellant (Org.Def.No.1)

versus

Majid Ahmed Oomberbhoy & ors. — Respondents (Org.Pltffs.)

Mr.Jai Chinai, Sr.Counsel with Sanjay Jain i/by M/s.Malvi Ranchoddas & Co. for appellant.

Mr.V.R.Dhond i/by M/s.Thakore & Jariwala & Associates for respondent no.1.

Mr.Sagar Kadam i/by S.Mohamedbhai & Co. for respondents 2 to 4.

CORAM : DR.S.RADHAKRISHNAN AND
S.C.DHARMADHIKARI, JJ.

DATE : 29th August 2005

PC :

1. Heard learned counsel for appellant and respondents. Learned counsel for appellant Mr.Chinai in this appeal raises a grievance in

relation to paragraph 18 of the impugned order dated 23rd March 2005. Mr.Chinai makes it abundantly clear that he is pressing this appeal only with regard to Soona Mahal property being Flat No.5, Second Floor, Soona Mahal Co-op. Hsg. Society Ltd; Marine Drive, Mumbai. The grievance of learned counsel for the appellant is that the learned Single Judge's observations that the the rate of return fixed @ 9% is correct and proper, is in fact not correct and he contended that the Court Receiver has fixed rate of return at various rates as per Exhibit-1 annexed to his Notice of Motion No.2420 of 2005 in Appeal No.505 of 2005. Mr.Chinai also contends that various materials were not produced before the Court Receiver and the learned Single Judge.

2. The observations made by learned Single Judge in paragraph 18 holding that the rate of return fixed @ 9% by the Court Receiver is correct and proper, is set aside only with respect to Soona Mahal property and appellant and respondents are at liberty to produce all relevant materials before the Court Receiver to enable the Court Receiver to fix the royalty with a reasonable return with regard to the said Soona Mahal property. The entire exercise shall be completed

as expeditiously as possible and preferably within a period of two months from today. Pending the same, the appellant shall continue to pay Rs.1,18,872/- to the Court Receiver as ad-hoc royalty per month. Appeal stands disposed off in terms of the above.

(DR.S.RADHAKRISHNAN, J.)

(S.C.DHARMADHIKARI, J.)